

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 46 – GENERAL EXPENSES OF THE CIVIL SERVICE Subhead 081 Recoverable salaries and allowances (Office of the Communications Authority Trading Fund)

Members are invited to recommend to Finance Committee the creation of the following permanent post in the Office of the Communications Authority with immediate effect upon approval of the Finance Committee –

1 Chief Regulatory Affairs Manager
(D1) (\$144,100 - \$157,700)

to be offset by the deletion of the following permanent post –

1 Chief Telecommunications Engineer
(D1) (\$144,100 - \$157,700)

PROBLEM

The Office of the Communications Authority (OFCA) needs to rationalise its directorate support for coping with the workload of regulating the telecommunications sector arising from the increasingly intertwining technical and economic regulatory issues of much greater diversities and complexities.

/PROPOSAL

PROPOSAL

2. We propose that one permanent post of Chief Telecommunications Engineer (CTE) (D1) post in OFCA be re-graded to one Chief Regulatory Affairs Manager (CRAM) (D1) post with immediate effect upon the approval of the Finance Committee to rationalise the directorate support required by OFCA.

JUSTIFICATION

3. The Communications Authority (CA) is a statutory body set up under the Communications Authority Ordinance (CAO) (Cap. 616) as the unified regulator for the broadcasting and telecommunications sectors in Hong Kong. OFCA provides executive support to the CA, exercising the statutory functions delegated to it by the CA under the CAO, the Telecommunications Ordinance (TO) (Cap. 106), the Broadcasting Ordinance (BO) (Cap. 562), the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391), the Unsolicited Electronic Messages Ordinance (Cap. 593), the Trade Descriptions Ordinance (TDO) (Cap. 362)¹ and the Competition Ordinance (CO) (Cap. 619)².

4. There are currently two civil service professional grades in OFCA which provide professional and technical support to the CA's telecommunications regulatory functions, namely, the Telecommunications Engineer (TE) grade and the Regulatory Affairs Manager (RAM) grade.

5. Members of the TE grade are mainly responsible for providing telecommunications engineering support to the CA and performing technical regulatory work including the planning and assignment of frequency spectrum, setting of technical standards, regulation of communications satellite systems and services, as well as the provision of technical advice on telecommunications infrastructure related matters. Entry to the TE grade requires a Corporate Membership in Electronics, Electrical or Information Discipline of the Hong Kong Institution of Engineers, or equivalent. CTE is the highest rank in the grade³ and there are four CTEs in OFCA's existing establishment.

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¹ The CA shares concurrent jurisdiction with the Customs and Excise Department under TDO, and enforces the fair trading sections of the TDO in relation to the commercial practices of licensees for the provision of telecommunications or broadcasting services under TO or BO.

² The CA shares concurrent jurisdiction with the Competition Commission under CO, and enforces CO in respect of the conduct of undertakings operating in the telecommunications and broadcasting sectors.

³ There are four ranks in the TE grade, namely, CTE (D1), Senior Telecommunications Engineer (STE) (MPS 45 – 49), TE (MPS 32 – 44), and Assistant Telecommunications Engineer (ATE) (MPS 18 – 27).

6. The RAM grade, on the other hand, is a multi-disciplinary grade comprising colleagues with background in engineering, economics, law, information technology, accounting, etc. Members of the RAM grade perform a diverse range of economic and technical regulatory functions including licensing, dispute resolution, regulatory accounting, auction of radio spectrum, investigation and enforcement against suspected breach of licence conditions with respect to the telecommunications sector. Entry to the RAM grade requires a first or second class honours bachelor's degree in electrical engineering, electronics engineering, information technology, economics, statistics, finance, accounting, law or business administration; as well as four years' post-graduate experience in the relevant field. CRAM is the highest rank in the RAM grade⁴ and there are two CRAMs in OFCA's existing establishment.

Review of TE Grade Posts in 2012-2013

7. Arising from the increasingly intertwining technical and economic regulatory issues of much greater diversities and complexities which go beyond the traditional telecommunications and electronics disciplines, as well as the increasing need for OFCA to regulate the economic aspects of the telecommunications sector, OFCA commissioned an external consultant in late 2012 to conduct an independent review of the functions of the TE grade posts (the Review) with a view to achieving an optimal deployment of staffing resources which best meets the operational needs of OFCA in the long run. The Consultant completed the Review in June 2013 which consisted of, amongst others, a comprehensive job analysis of all posts in the TE grade and interviews with TE grade members.

8. Taking into account the findings of the Review and the views of TE grade members, the Government decided to adopt the Consultant's recommendation that TE grade posts with at least 50% of duties requiring in-depth engineering knowledge would be retained in the long run. Based on the Consultant's job analysis, the Government decided that a cadre of 25 TE grade posts (out of the then establishment of 39 posts) would be retained while the remaining 14 posts (comprising one CTE, three STE and 10 TE posts) would be re-graded to posts of equivalent ranks in the RAM grade by phases upon the retirement of the TE grade post holders. TE grade members were informed of the decision in June 2013. The Panel on Information Technology and Broadcasting of the Legislative Council was also briefed of the outcome of the Review and the decisions of the Government on 8 July 2013 [LC Paper No. CB(4)834/12-13(06) refers].

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⁴ There are four ranks in the RAM grade, namely, CRAM (D1), Principal Regulatory Affairs Manager (PRAM) (MPS 45 – 49), Senior Regulatory Affairs Manager (SRAM) (MPS 34 – 44), and RAM (MPS 27 – 33).

9. OFCA has since taken steps to implement the outcome of the Review and the re-grading plan by phases. Recruitment of the TE grade has re-commenced since 2015 to ensure that a cadre of 25 TE grade posts are retained in OFCA. As to the re-grading, thus far, we have re-graded three STE and 10 TE posts to three PRAM, seven SRAM and three RAM posts. In other words, except for the one CTE post, all the TE grade posts identified in the Review for re-grading have been re-graded into RAM grade posts.

Re-grading of the CTE post to CRAM post

10. The CTE post to be re-graded is the post of Head, Regulatory 2 (HR2), currently the head of Regulatory Division 2 in the Regulatory Affairs Branch of OFCA. Regulatory Division 2 is responsible for duties which are primarily of an economic regulatory nature for the effective licensing and monitoring of telecommunications services. They include –

- (a) administering telecommunications service licensees, including the processing of new licence applications and licence renewals;
- (b) enforcing statutory requirements, licence conditions and relevant regulations including the investigation of contraventions by telecommunications service licensees, handling cases which involve bypass of the interconnection charge payment obligations, billing errors, disruptions of telecommunications services provided to customers, etc.;
- (c) reviewing the economic regulatory and licensing frameworks, formulating licence conditions, issuing relevant codes and guidelines for enforcement of the statutory requirements and licence conditions including consumer protection, and conducting industry and public consultation where appropriate;
- (d) handling the development and effective implementation of the interconnection charging regime for telecommunications service licensees, including handling of interconnection disputes and requests for determination of interconnection charges, promulgating relevant regulatory guidance on the interconnection charging principles, etc.; and
- (e) providing legal support to the CA and OFCA on the regulation and licensing of telecommunications services, as well as liaising with external legal advisors in connection with all legal proceedings instituted or defended by the CA or OFCA.

11. As the head of Regulatory Division 2, HR2 is responsible for overseeing and supervising the duties set out in paragraph 10 above, which are by and large economic, regulatory and legal support functions. HR2 is required to lead a multi-disciplinary team of officers, grouped under three sections and each headed by a PRAM and staffed by RAM grade officers, to perform regulatory functions requiring knowledge and inputs in various areas of law, economics, business administration, information and communications technology, etc. There is currently no TE grade officer deployed under Regulatory Division 2. Given the nature of the duties of Regulatory Division 2 and its staffing structure, we consider it appropriate to re-grade the directorate post of HR2 from a CTE post to a CRAM post to enable OFCA to perform its economic regulatory functions more effectively in the long run.

Encl. 1 12. The organisation chart of OFCA with the proposed creation of the
Encl. 2 CRAM post is at Enclosure 1. The proposed CRAM post will remain to be designated as HR2 and the job description of the post is at Enclosure 2.

ALTERNATIVES CONSIDERED

13. We have critically reviewed the existing staff resources situation in OFCA. In view of the scope and complexity of the regulatory functions involved, it is appropriate to re-grade the HR2 post to a CRAM post to rationalise the long-term manpower requirement. There is no viable alternative as it is not feasible for the other directorate officers in OFCA to absorb the work of the proposed CRAM post.

FINANCIAL IMPLICATIONS

14. The proposed creation of one CRAM post, to be offset by deletion of one CTE post, is cost neutral. The staff cost will continue to be borne by the OFCA Trading Fund.

PUBLIC CONSULTATION

15. We consulted the Legislative Council Panel on Information Technology and Broadcasting on 9 April 2018. Members supported the re-grading proposal.

/ESTABLISHMENT

ESTABLISHMENT CHANGES

16. The establishment changes of OFCA for the past two years are as follows –

Establishment (Note)	Number of posts			
	Existing (as at 1 November 2018)	As at 1 April 2018	As at 1 April 2017	As at 1 April 2016
A*	15 [#]	15	15	15
B	94	92	92	92
C	298	296	294	293
Total	407	403	401	400

Note:

A – ranks in the directorate pay scale or equivalent

B – non-directorate ranks, the maximum pay point of which is above MPS Point 33 or equivalent

C – non-directorate ranks, the maximum pay point of which is at or below MPS Point 33 or equivalent

* – excluding supernumerary post created under delegated authority

– as at 1 November 2018, there were no unfilled directorate posts in OFCA

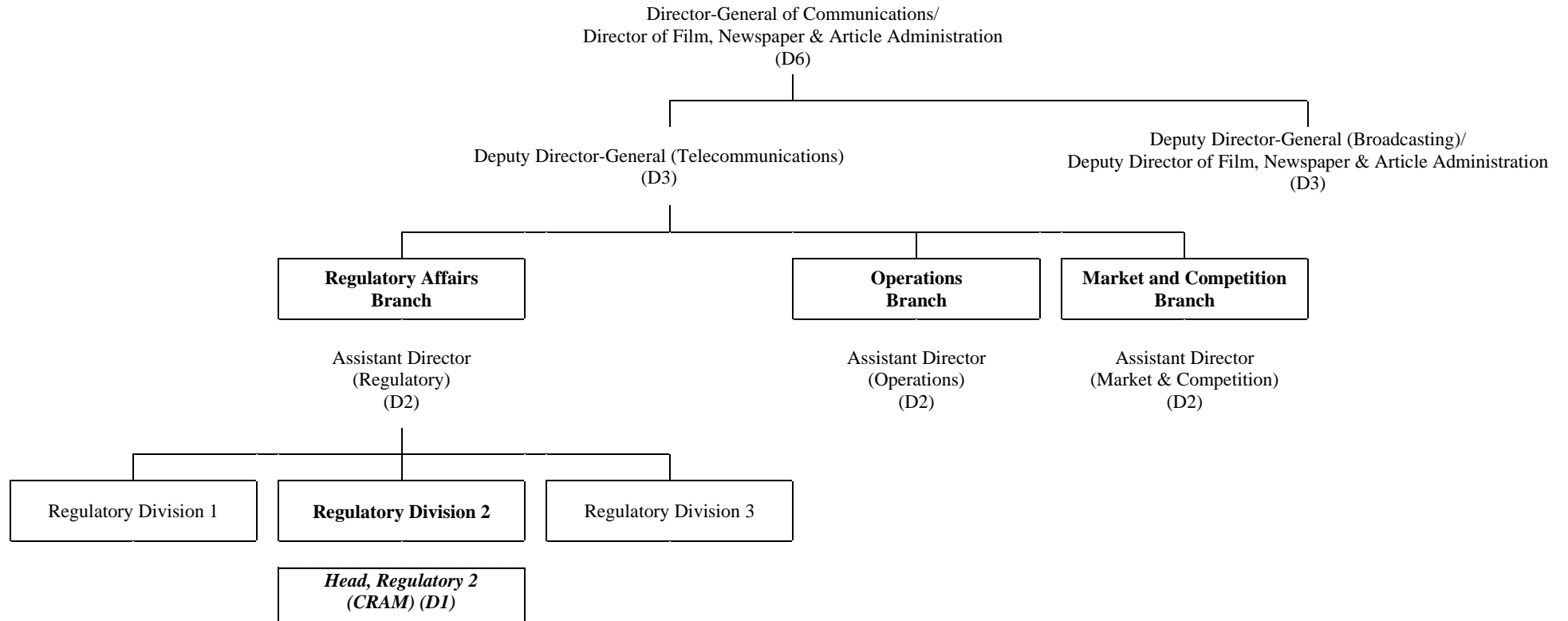
CIVIL SERVICE BUREAU COMMENTS

17. The Civil Service Bureau supports the proposed re-grading of a permanent CTE post to a permanent CRAM post. The revised grading and ranking of the post to be re-graded are considered appropriate having regard to the level and scope of responsibilities required.

ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE

18. The Standing Committee on Directorate Salaries and Conditions of Service has advised that the grading proposed for the permanent directorate post is appropriate.

**Organisation Chart of the Office of the Communications Authority
(after the proposed creation of one directorate post of Chief Regulatory Affairs Manager (D1))**



Legend

Directorate post proposed to be created

CRAM - Chief Regulatory Affairs Manager

Job Description
Head, Regulatory 2
Regulatory Division 2, Regulatory Affairs Branch

Rank : Chief Regulatory Affairs Manager (D1)

Responsible to : Assistant Director (Regulatory Affairs)

Main Duties and Responsibilities –

- (a) overseeing the licensing schemes and processes for licensees of public telecommunications services, including processing of new licence applications, licence renewals and issue of licence application guidelines;
- (b) supervising the administration of telecommunications service licensees and the handling of related regulatory matters;
- (c) overseeing the enforcement of statutory requirements, licence conditions and relevant regulations including the investigation of contraventions by telecommunications service licensees, etc.;
- (d) managing the review of the economic regulatory and licensing frameworks, conducting industry or public consultation where appropriate, and issuing codes and guidelines for the enforcement of the statutory requirements and licence conditions;
- (e) supervising the development and effective implementation of the interconnection charging regime for telecommunications service licensees, including keeping regulatory oversight on the establishment of interconnection agreements between licensees, handling of interconnection disputes, conducting timely review of the interconnection regime, etc.; and
- (f) supervising the provision of legal support to the Communications Authority (CA) and the Office of the Communications Authority (OFCA), as well as the liaison with external legal advisors in connection with all legal proceedings instituted or defended by the CA or OFCA.
